

PATENT

Atty Docket No.: 200208214-1

App. Ser. No.: 10/608,206

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks.

Claims 1, 33, 39, and 40 have been amended and Claim 36 has been canceled without prejudice or disclaimer of the subject matter contained therein. In addition, Claims 47 and 48 have been added. Claims 1-16, 18-34, 37-40, 42, 47, and 48 are pending, of which, Claims 1, 16, 33, and 39 are independent.

No new matter has been introduced by way of the claim amendments or additions; entry thereof is therefore respectfully requested.

Allowable Subject Matter

The indication that Claims 4, 7, and 21 are objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims is noted with appreciation. These claims have not been amended to be in independent form because it is believed that independent Claims 1 and 16 are allowable over the cited documents of record for at least the reasons set forth below.

Drawings

The indication that the drawings submitted on June 30, 2003 have been accepted is also noted with appreciation.

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Claim Rejection Under 35 U.S.C. §112, second paragraph

The Official Action has rejected Claims 39 and 40 as allegedly being indefinite.

Claims 39 and 40 have been amended in minor respects as noted above to better comply with the provisions of 35 U.S.C. §112, second paragraph. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 39 and 40.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1, 11, 12, 16, 18, and 22-24

Claims 1, 11, 12, 16, 18, and 22-24 have been rejected under 35 U.S.C. 102(a) as allegedly being anticipated by U.S. Patent Application Publication Serial No. 2003/0188210

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to Nakazato. This rejection is respectfully traversed because Nakazato fails to disclose each and every element claimed in independent Claims 1 and 16 and the claims that depend therefrom.

The Official Action asserts that Nakazato discloses a controller 24 that throttles a CPU 26 "when the average power consumption of the system exceed[s] the threshold [Pu-0044] wherein Pu is the maximum power output of the power supply [0050-0051]."

Footnote 1. Presumably based upon the disclosure contained in paragraphs [0044], [0050], and [0051], the Official Action concludes that the power supply (AC adapter 20 or battery back 23) of Nakazato inherently,

has a maximum power output based on an average power consumption of the computer system since it would be inefficient if the power supply having a maximum output below the average power consumption where the computer would operate below its capacity most of the time; or if the power supply having a maximum output above the average power consumption which result in increased size and cost." *Footnote 1.*

A close inspection of the disclosure contained in Nakazato reveals that this assertion is erroneous.

Paragraph [0044] of Nakazato discloses that the controller 24 increases the throttling rate on the CPU 26 if the average power consumption is equal to or exceeds the upper limiting value (Pu). However, that paragraph does not indicate or otherwise suggest that the power supply (20 or 23) has a maximum power output that is based on the average power consumption of the CPU 26 or the personal computer 10.

Paragraph [0050] of Nakazato states that an AC battery and a battery pack having lower capacity may be used in the system, but again, that paragraph does not indicate or fairly suggest that the power supply (20 or 23) has a maximum power output that is based on the

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average power consumption of the CPU 26 or the personal computer 10. In fact, it appears that paragraph [0050] is indicating that an AC battery and a batter pack having a generally lower capacity may be used, but Nakazato does not indicate any type of basis for determining the level to which the capacity could be lowered.

Paragraph [0051] of Nakazato states that the upper and lower limiting values of the AC adapter 20 and the battery pack 23 may be same or they may differ. Again, paragraph [0051] fails to indicate or fairly suggest that the power supply (20 or 23) has a maximum power output that is based on the average power consumption of the CPU 26 or the personal computer 10.

In addition to the above-cited failures in Nakazato, the Official Action's assertion that the power supply of Nakazato would inherently have a maximum power output below the average power consumption is completely erroneous because Nakazato states that the personal computer 10 includes a "state where the throttling disabled, i.e., the state where the CPU 26 is operating at all times, the maximum level of performance of the CPU is achieved." *Paragraph [0037]*. Nakazato further states in that paragraph that "the state where the CPU 26 is operating at all times is defined as the default state." In other words, Nakazato indicates that the state where the throttling is disabled, that is, the state in which the CPU 26 is allowed to consume its maximum amount of power is the default state. As such, Nakazato clearly discloses that the maximum power output of the power supply is based on or is at least equivalent to the maximum power consumption and not the average power consumption of the CPU 26.

Accordingly, Nakazato fails to disclose each and every element claimed in independent Claims 1 and 16 and thus cannot anticipate these claims. The Examiner is

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therefore respectfully requested to withdraw the rejection of Claims 1 and 16 and to allow these claims.

Claims 11, 12, 18, and 22-24 are also allowable over Nakazato for reasons in addition to their respective dependencies upon allowable independent Claims 1 and 16. For instance, with respect to Claims 11, 12, and 22-24, contrary to the Official Action's assertions, Nakazato discloses that the CPU 26 is throttled; not that the CPU 26 power state is reduced. In fact, Nakazato fails to disclose or fairly suggest that the CPU 26 has power states.

Claims 1, 10, 16, 25, and 29-32

Claims 1, 10, 16, 25, and 29-32 have been rejected under 35 U.S.C. 102(a) as allegedly being anticipated by U.S. Patent Application Publication Serial No. 2004/0163001 to Bodas. This rejection is respectfully traversed because Bodas fails to disclose each and every element claimed in independent Claims 1 and 16 and the claims that depend therefrom.

The Official Action refers to paragraph [0025] of Bodas as allegedly disclosing that "Pmax may be set by automatically monitoring the power consumption level of the computer system over a period of time using the techniques described in the application..." *Footnote 2*. This assertion, however, is completely incorrect because paragraph [0025] of Bodas discloses that the Ptarget, and not the Pmax may be set by automatically monitoring the power consumption level of the computer system 105. As such, the disclosure contained in the application referenced in paragraph [0025] pertains to techniques for determining the Ptarget and is thus irrelevant to the maximum power output of a power supply 240. Moreover, Pmax pertains to the maximum power consumption level of the computer system 105 and not to the maximum power output of the power supply 240.

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In fact, Bodas suggests that the maximum output of the power supply 240 is set to the maximum power specification P_{max} of a computer system. *Paragraphs [0022] and [0023].*

In an effort to reduce the energy consumption level of the components in the computer system, Bodas proposes a target power consumption level P_{target} , which may be a small percentage of the P_{max} or an average power consumption level. *Paragraph [0025].* In other words, Bodas discloses that the power consumption levels of the components in the computer system are reduced to reach the target power consumption level P_{target} . Bodas, however, fails to disclose or fairly suggest that the maximum power output of the power supply 240 is based on an average power consumption of the at least one computer system.

For at least the foregoing reasons, Bodas fails to disclose each and every element claimed in independent Claims 1 and 16 and thus cannot anticipate these claims. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 1 and 16 and to allow these claims.

Claims 10, 25, and 29-32 are also allowable over Bodas for reasons in addition to their respective dependencies upon allowable independent Claims 1 and 16. For instance, Bodas fails to disclose or suggest that the power provisioning is operable to disconnect a portion of a power bus to place a computer in a lower power state as claimed in Claims 29 and 31.

Claim Rejection Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation,

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either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 2, 3, 5, 19, 20, 39, and 40

Claims 2, 3, 5, 19, 20, 39, and 40 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Nakazato in view of U.S. Patent Application Publication Serial No. 2003/0015983 to Montero et al. This rejection is respectfully traversed because Nakazato and Montero et al., considered singly or in combination, fail to disclose all of the features of independent Claims 1, 16, and 39 and the claims that depend therefrom.

Nakazato fails to disclose or reasonably suggest all of the features of independent Claims 1 and 16 as discussed above. In addition, the Official Action cannot reasonably rely upon the disclosure contained in Montero et al. to make up for the deficiencies in Nakazato. In fact, the Official Action only relies upon Montero et al. for its discussion of cooling systems. As such, even if a person of ordinary skill in the art were somehow motivated to combine the disclosures of Nakazato and Montero et al. as suggested in the Official Action, the proposed combination would still fail to yield the present invention as claimed in independent Claims 1 and 16.

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With regard to independent Claim 39, Nakazato fails to at least disclose that the power supply means has a maximum power output based on an average power consumption of the at least one computer system for reasons similar to those presented above with respect to independent Claims 1 and 16. In addition, Montero et al. fails to make up for the deficiencies in Nakazato as also discussed above.

Accordingly, the Official Action has failed to prove that independent Claims 1, 16, and 39, and thus, the claims that depend therefrom, are *prima facie* obvious in view of the disclosures contained in Nakazato and Montero et al. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 2, 3, 5, 19, 20, 39, and 40 and to allow these claims.

Claims 6, 8, and 15

Claims 6, 8, and 15 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Nakazato in view of U.S. Patent Application Publication Serial No. 2001/0003207 to Kling et al. This rejection is respectfully traversed because Nakazato and Kling et al., considered singly or in combination, fail to disclose all of the features of independent Claim 1 and the claims that depend therefrom.

Nakazato fails to disclose or reasonably suggest all of the features of independent Claims 1 and 16 as discussed above. In addition, the Official Action cannot reasonably rely upon the disclosure contained in Kling et al. to make up for the deficiencies in Nakazato. In fact, the Official Action only relies upon Kling et al. for its alleged discussion of "comparing the amount of power consumed by the at least one computer system to a second threshold."

Official Action, page 12, lines 1 and 2. As such, even if a person of ordinary skill in the art

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were somehow motivated to combine the disclosures of Nakazato and Kling et al. as suggested in the Official Action, the proposed combination would still fail to yield the present invention as claimed in independent Claim 1.

Accordingly, the Official Action has failed to prove that independent Claim 1, and thus, the claims that depend therefrom, are *prima facie* obvious in view of the disclosures contained in Nakazato and Kling et al. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 6, 8, and 15 and to allow these claims.

Claims 13, 14, 26, and 27

Claims 13, 14, 26, and 27 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Nakazato in view of U.S. Patent No. 5,752,046 to Oprescu et al. This rejection is respectfully traversed because Nakazato and Oprescu et al., considered singly or in combination, fail to disclose all of the features of independent Claims 1 and 16 and the claims that depend therefrom.

Nakazato fails to disclose or reasonably suggest all of the features of independent Claims 1 and 16 as discussed above. In addition, the Official Action cannot reasonably rely upon the disclosure contained in Oprescu et al. to make up for the deficiencies in Nakazato. In fact, the Official Action only relies upon Oprescu et al. for its alleged discussion of a repository that stores power state information. As such, even if a person of ordinary skill in the art were somehow motivated to combine the disclosures of Nakazato and Oprescu et al. as suggested in the Official Action, the proposed combination would still fail to yield the present invention as claimed in independent Claims 1 and 16.

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Accordingly, the Official Action has failed to prove that independent Claims 1 and 16, and thus, the claims that depend therefrom, are *prima facie* obvious in view of the disclosures contained in Nakazato and Oprescu et al. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 13, 14, 26, and 27 and to allow these claims.

Claims 33, 34, and 36-38

Claims 33, 34, and 36-38 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Bodas in view of U.S. Patent Application Publication Serial No. 2003/0015983 to Montero et al. This rejection is respectfully traversed because Bodas and Montero et al., considered singly or in combination, fail to disclose all of the features of independent Claim 33 and the claims that depend therefrom.

Claim 33 has been amended to include, *inter alia*, that the maximum power output of the power supply is based on an average power consumption of the multiple computer systems. As such, Claim 33 is allowable over the disclosure contained in Bodas for at least those reasons presented above with respect to Claim 16.

More particularly, for instance, Bodas suggests that the maximum output of the power supply 240 is set to the maximum power specification P_{max} of a computer system. *Paragraphs [0022] and [0023]*. In an effort to reduce the energy consumption level of the components in the computer system, Bodas proposes a target power consumption level P_{target} , which may be a small percentage of the P_{max} or an average power consumption level. *Paragraph [0025]*. In other words, Bodas discloses that the power consumption levels of the components in the computer system are reduced to reach the target power consumption level P_{target} . Bodas, however, fails to disclose or fairly suggest that the maximum power

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output of the power supply 240 is based on an average power consumption of the at least one computer system.

In addition, the Official Action cannot reasonably rely upon the disclosure contained in Montero et al. to make up for the deficiencies in Bodas. In fact, the Official Action only relies upon Montero et al. for its discussion of cooling systems. As such, even if a person of ordinary skill in the art were somehow motivated to combine the disclosures of Bodas and Montero et al. as suggested in the Official Action, the proposed combination would still fail to yield the present invention as claimed in independent Claim 33.

Accordingly, the Official Action has failed to prove that independent Claim 33, and thus, the claims that depend therefrom, are *prima facie* obvious in view of the disclosures contained in Bodas and Montero et al. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 33, 34, and 36-38 and to allow these claims.

Claim 42

Claim 42 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Nakazato in view of U.S. Patent Application Publication Serial No. 2003/0015983 to Montero et al. and further in view of U.S. Patent Application Publication Serial No. 2001/0003207 to Kling et al. This rejection is respectfully traversed because Nakazato, Montero et al., and Kling et al., considered singly or in combination, fail to disclose all of the features of independent Claim 39 and thus, Claim 42.

Nakazato fails to disclose or reasonably suggest all of the features of independent Claim 39 as discussed above. In addition, the Official Action cannot reasonably rely upon the disclosures contained in Montero et al. and Kling et al. to make up for the deficiencies in

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Nakazato. In fact, the Official Action only relies upon Montero et al. for its discussion of cooling systems and upon Kling et al. for its alleged discussion of "comparing the amount of power consumed by the at least one computer system to a second threshold." *Official Action, page 12, lines 1 and 2.* As such, even if a person of ordinary skill in the art were somehow motivated to combine the disclosures of Nakazato, Montero et al., and Kling et al., as suggested in the Official Action, the proposed combination would still fail to yield the present invention as claimed in independent Claim 39.

Accordingly, the Official Action has failed to prove that independent Claim 39, and thus, Claim 42, are *prima facie* obvious in view of the disclosures contained in Nakazato, Montero et al., and Kling et al. The Examiner is therefore respectfully requested to withdraw the rejection of Claim 42 and to allow this claim.

Claim 33 (Bodas in view of Shimoda et al.)

Claim 33 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Bodas in view of U.S. Patent No. 6,212,644 to Shimoda et al. This rejection is respectfully traversed because Bodas and Shimoda et al., considered singly or in combination, fail to disclose all of the features of independent Claim 33.

As discussed above, Claim 33 has been amended in minor respects and is allowable over the disclosure contained in Bodas for at least those reasons presented above with respect to Claim 16.

In addition, the Official Action cannot reasonably rely upon the disclosure contained in Shimoda et al. to make up for the deficiencies in Bodas. In fact, the Official Action only relies upon Shimoda et al. for its discussion of cooling systems. As such, even if a person of

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ordinary skill in the art were somehow motivated to combine the disclosures of Bodas and Shimoda et al. as suggested in the Official Action, the proposed combination would still fail to yield the present invention as claimed in independent Claim 33.

Accordingly, the Official Action has failed to prove that independent Claim 33 is *prima facie* obvious in view of the disclosures contained in Bodas and Shimoda et al. The Examiner is therefore respectfully requested to withdraw the rejection of Claim 33 and to allow this claim.

Newly Added Claims

New Claims 47 and 48 have been added to further define the scope of the invention. These claims are allowable over the cited documents of record at least by virtue of their respective dependencies upon allowable independent Claims 1 and 16.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

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Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

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Respectfully submitted,

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